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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Pitcairn

Working paper prepared by the Secretariat

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I. Background information

1. Pitcairn[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is located midway between Australia and South America at 25°S and 130°W. It comprises four islands in the eastern Pacific Ocean: Pitcairn, the only inhabited island (named after Robert Pitcairn, a midshipman who sighted it in 1767), Henderson, Ducie and Oeno. The total area of the Territory is 35.5 sq km while that of Pitcairn is 4.35 sq km.[2]

2. Access to Pitcairn is possible only by sea, usually by container vessels plying between New Zealand and the United Kingdom or from the eastern seaboard of the United States or the Caribbean, via the Panama Canal. A number of cruise ships also call at Pitcairn. Charter boats from Mangareva in French Polynesia are increasingly being given access to the island. Ships visiting the island remain at anchor some distance from the shoreline and visitors are ferried to the island in longboats.

3. The terrain in Pitcairn is of rugged volcanic formation, with a rocky coastline and cliffs lining nearly the entire perimeter of the island, giving no easy access from the sea. Although canoes can be launched in many places, Bounty Bay and the Tedside landing are the only two places on the island that offer a reasonably safe landing. Pitcairn enjoys a subtropical climate. Mean monthly temperatures vary from around 19°C in August to 24°C in February.

4. Pitcairn was uninhabited when castaways from HMS Bounty (9 mutineers and 18 Polynesians) arrived there in 1790. Today, Pitcairn is inhabited partly by their descendants. Its population has been declining steadily since 1937, when it was approximately 200. As of February 2005 the total population of the Territory was 47. It is common for young people to leave the Territory at the age of 15 (usually in their third year of secondary schooling) to attend secondary school in New Zealand. The continuing exodus of young people has been a concern to the Islanders for many years. The entire population lives in Adamstown, the only settlement in Pitcairn.

5. The official languages are English and Pitkern, which is a mixture of eighteenth century English and Tahitian.

II. Constitutional structure and legal system

6. The Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970 are, in effect, the Constitution of Pitcairn. These instruments established the office of Governor and regulate his powers and duties. The Governor is appointed by the Queen, acting on the advice of the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, to whom he is accountable. In practice, the High Commissioner of the United Kingdom to New Zealand is appointed concurrently as Governor of Pitcairn and the responsibility for the administration of the island is accordingly vested in him. The current Governor of Pitcairn is Richard Fell.

7. Under the 1970 Order, the Governor has legislative authority for Pitcairn and is empowered to formulate laws on any subject. However, according to the administering Power, the Royal Instructions require him to obtain the prior approval of the Secretary of State for the enactment of certain classes of laws, including laws which appear to him to be inconsistent with the United Kingdom's treaty obligations

and laws which discriminate between different communities or religions. Laws enacted by the Governor are styled ordinances. Formally, all ordinances are subject to disallowance by the Queen, on the advice of the Secretary of State. The Government of the United Kingdom retains the power to legislate directly for Pitcairn by an Act of Parliament or an Order in Council. It is under his legislative power that the Governor establishes courts for Pitcairn and regulates their jurisdiction and procedures. The 1970 Order also vests in the Governor the power to appoint persons to offices in the public service and to remove or discipline them. In response to requests from the island for closer integration with the Governor's Office, a Governor's Representative (a member of the British Diplomatic Service) has been stationed on the island since early 2003 to provide a direct line of communication to and from the Governor's Office.

8. The major part of the general administration of Pitcairn is conducted from the Pitcairn Islands Office in Auckland, New Zealand, which is run by a Commissioner appointed by the Governor. Pitcairn Islanders manage their internal affairs through the Island Council, which was established by the Local Government Ordinance. The Ordinance conferred on the Council the duty to provide for the enforcement of the laws of Pitcairn and empowered it to make regulations for the good administration of Pitcairn, the maintenance of peace, order and public safety and the social and economic advancement of the Islanders.

9. The Council is required to meet at least once a month. It consists of 10 members: the Island Mayor, who is elected every three years (elections took place for the first time in 1999 when the century-old practice of naming a magistrate to head the local government ended); the Chairman of the Internal Committee, who is elected annually; four Councillors, who are also elected annually; the Island Secretary, who is a public officer and serves on the Council ex officio; one nominated member, who is appointed annually by the Governor; and two advisory (non-voting) members, one of whom is appointed annually by the other members of the Council.

10. The decisions of the Island Council are implemented by the Internal Committee, whose principal function is to organize and implement the public works programme, for which all adult and able-bodied Pitcairn Islanders are responsible. The Committee comprises the Chairman and such other persons (not being members of the Council or public officers) as the Council, with the Governor's approval, may appoint.

11. For people not native to Pitcairn, three years of residence and being 18 years old are required to vote. Candidates for the posts of Mayor and Councillors must be at least 21 years of age and native to Pitcairn or resident on the island for the previous three years. The Island Secretary prepares the register of voters in October of each year, and elections are held during the first two weeks in December. The Island Secretary and other non-elected officials of the local government, including the Postmaster, Communications Officer, Island Auditor and Police Officer, are appointed by the Governor, invariably after consultation with the Council.

12. An Island Magistrate is appointed from among the residents of Pitcairn. Other magistrates, legally qualified in a Commonwealth country, are appointed to preside over the Court in matters outside the powers of the Island Magistrate. The jurisdiction of the Court is limited to offences triable summarily, committal proceedings and certain inquiries together with civil litigation up to a prescribed

level. There is a right of appeal from the Court to the Supreme Court of Pitcairn, which is a superior Court of record and has jurisdiction in criminal and civil cases outside the competence of the Magistrate's Court. The Supreme Court is constituted by a judge, the Chief Justice or one of several puisne judges, with or without assessors. Further rights of appeal may be made to the Pitcairn Court of Appeal, comprising three judges, and the Privy Council.

13. Pitcairn's Constitution, as embodied in the Pitcairn Order 1970 and the Pitcairn Royal Instructions 1970, does not contain any provisions expressly guaranteeing human rights. According to the Administering Power, however, the Magistrate's Court and the Supreme Court both have inherent jurisdiction to enforce human rights in accordance with the laws in force in the Islands. The Governor, as holder of the highest executive office, and the Chief Justice, as head of the judiciary, are responsible within their respective spheres of authority for overseeing the implementation of human rights on Pitcairn. The Supreme Court has taken the approach that the Human Rights Act 1998 of the United Kingdom applies to Pitcairn.

14. According to the administering Power, the laws in force in the Territory, including those relating to human rights, are published by the Government of the United Kingdom and the Pitcairn Administration and are readily available to all on the Island through the Island Secretary's office. The Territory's reports to international bodies are prepared by the Government of the United Kingdom, drawing on information provided by the Governor and the Commissioner.

III. Economy

15. The principal sources of income for Pitcairn's public economy are sales of stamps, Internet domain names and revenue from interest and dividends. In 2004/05, expenditure was roughly NZ$ 1,526,000 and income for the year NZ$ 365,000. Pitcairn's reserves were exhausted in late 2003 and the island now receives budgetary assistance from the United Kingdom Department for International Development. Budgetary aid of NZ$ 549,000 was provided in 2004/05 to meet the operating budget deficit. Significant development funds have been allocated for infrastructure projects by the Department for International Development and the European Union. In 2005 projects were completed by the United Kingdom Government to repair and upgrade the island's jetty and slipway and construct a sealed road — Pitcairn's first — from the landing area to the Adamstown settlement. A new museum was also constructed to provide a focal point for the community and for tourist visitors. Studies into access, tourism and communications were carried out in 2005. A range of additional infrastructure projects are now being planned. Discussions with French Polynesia are also taking place to provide a regular freight and passenger service to Pitcairn.

16. The private economy of Pitcairn is based on subsistence gardening and fishing and the sale of handicrafts, mainly to passing ships. The fertile soil of the valleys produces a wide variety of fruits and vegetables. Fish is the main source of protein in the Islanders' diet.

17. Pitcairn exports fruits, vegetables, handicrafts and high quality honey and imports, mostly from New Zealand, fuel oil, machinery, building materials, cereals, milk, flour and other foodstuffs. The latter are ordered several months in advance

and are obtainable through a cooperative store, established in 1967. It is hoped that an increase in Pitcairn's food export business will add substantially to the Territory's economy. Pitcairn's products are sold in New Zealand, Japan and the United States of America. The Pitcairn Island Producers' Cooperative, established in 1999, promotes and coordinates the distribution of products produced by its members. A number of Pitcairn items are available directly from Pitcairn through the Internet. Given the remoteness of Pitcairn, customers must allow up to six months or more for delivery and, when paying for orders by cheque, customers are advised to leave their cheques undated because of the long time it takes to process them.

18. For land distribution issues, see A/AC.109/2005/10.

19. Diesel-driven generators provide 240-volt electric power for approximately four hours each evening and for two hours each morning. Islanders use the radio to communicate on the island. For many years, ham radio communications were the mainstay of Pitcairn's contact with the outside world, but nowadays overseas communications are maintained through surface mail, satellite phone and the Internet. The Internet was introduced to the island in 2002 and was upgraded in 2004 to provide broader bandwidth. While live television has not yet reached the island, videotapes are very popular.

20. Internet users worldwide can acquire a ".pn" suffix that is permanently awarded to Pitcairn. The fees for the acquisition of a ".pn" domain are US$ 200 for the first registration, which covers two years, and US$ 100 for the annual renewal.

21. Individuals wishing to visit Pitcairn must first obtain a licence to land and reside there from the Pitcairn Islands Office in Auckland, New Zealand. Licences are issued for six months and may be renewed for further similar periods by the Governor. The Island Mayor, subject to the direction of the Governor, is empowered to grant access ashore to crew members or passengers of any visiting vessel.

IV. Social and educational conditions

22. The population of the Territory is self-employed, but allowances and wages are paid to members of the community who participate in local government activities or perform communal services. Public work, which is required by law of all men and women between 15 and 65 years of age, is partly a relic of the society created by the mutineers and partly a necessity born of the basically tax-free economy. The most essential of the traditional public duties are concerned with Bounty Bay and the maintenance of the public boats. Installations in the Bay are provided mainly from general revenue and grants from the United Kingdom. The only jobs in the Territory are government posts, which are normally reserved for permanent residents of Pitcairn. There are no banking facilities, but undated personal cheques and traveller's cheques may be cashed at the Island Secretary's office.

23. Education is free and compulsory for all children between 5 and 15 years of age. The school is operated and financed by the Government. Instruction is in English and is based on the New Zealand standard curriculum. The Education Officer, who is also the editor of the *Pitcairn Miscellany*, the Territory's only newspaper, is a trained teacher recruited from New Zealand, usually for a one-year term. Post-primary education is conducted at the school by correspondence courses arranged through the New Zealand Department of Education. Overseas secondary

education is encouraged by the grant of bursaries and a number of students have received secondary education in New Zealand at the expense of the Government of Pitcairn.

24. The Seventh Day Adventist Church is the only Church on the Island.

25. The Pitcairn Island Health Centre, completed in 1997, was funded by the United Kingdom Government Overseas Development Administration. It has an examination room, a dental clinic, an X-ray room and a two-bed ward for overnight patients. A general practitioner, recruited from New Zealand, is stationed on the island on a three-month rotation, assisted by an assistant nurse and a local dental officer, who also acts as an X-ray technician. The Government has also funded a social welfare programme, which ensures the presence of two social workers on the island at all times.

26. Built with a grant from the Government of the United Kingdom, Pitcairn Island has a new museum building. Artefacts on display include stone tools made by Polynesians prior to the arrival of the mutineers as well as cannonballs, an anchor and a swivel gun from the Bounty.[3]

27. According to the administering Power, there is ongoing public interest in certain cases of serious sexual offences against young persons on Pitcairn. These include numerous criminal charges of rape and indecent assault. Thirteen men were charged with a total of 96 offences. The trials of the seven on-island defendants were held on Pitcairn from September to November 2004: six of them, including individuals holding public office, were convicted on a number of counts. Four men received custodial sentences. They are currently released on bail pending appeals to the Pitcairn Court of Appeal and Privy Council. The convicted men no longer hold public office. Extradition requests for a further three defendants from New Zealand are in progress and their trials are likely to take place at a later date. One Australian resident surrendered himself to the jurisdiction of the Pitcairn Courts and is awaiting trial. Charges against two further defendants have now been dropped.

28. The situation has been viewed with concern by the Islanders, since, among other things, it takes four men to handle the longboats, which take passengers to and from the island. According to the administering Power, three of the men who received custodial sentences are able-bodied men who can assist in the handling of the longboats. In addition, prison regulations allow prisoners on the island to work outside the prison under supervision and, in certain circumstances, to be temporarily released for employment. According to information provided by the administering Power, this will be a matter for the prison authorities to decide upon.

V. Future status of the Territory

A. Position of the territorial Government

29. The statement of the representative of the Island Mayor to the Pacific Regional Seminar on decolonization, held at Madang, Papua New Guinea, from 18 to 20 May 2004, is summarized in the report of the Special Committee for 2004.[4]

30. It should be noted, however, that with regard to self-determination, the representative reiterated that the people of Pitcairn did not fully understand all the

possibilities or the significance of the various self-determination options that might be available to them. The attention demanded by the new projects mentioned above had also served as a diversion. Knowing that Pitcairn's constitutional review had been deferred until after 2006, he added that it seemed logical to precede this process with discussions on self-determination. To that end, he said that Pitcairn would gain maximum benefit in understanding its political future from a United Nations visiting mission. He added that Pitcairn also remained eager to develop, with the Special Committee and the Government of the United Kingdom, a work programme in accordance with the Committee's proposal of 2000 (see A/AC.109/2001/2).

B. Position of the administering Power

31. In his statement at the 2nd meeting of the Fourth Committee, on 5 October 2005, at the sixtieth session of the General Assembly (see A/C.4/60/SR.2), the representative of the United Kingdom said the consultation process between his Government and its 10 overseas Territories was continuing. The seventh annual meeting of the Overseas Territories Consultative Council would be held in London in October 2005. The Council provided a forum for dialogue between democratically elected chief ministers and their equivalents from the Territories and United Kingdom Government Ministers on a range of issues including the relationship between the United Kingdom and its overseas Territories, constitutional modernization, good governance, environmental matters and the United Kingdom's international obligations.

32. The United Kingdom Government welcomed the progress that was being made in the constitutional review process; there had been useful discussions between his Government and representatives of Gibraltar, Montserrat and the Turks and Caicos Islands. In Saint Helena, a consultative poll had rejected a revised draft constitution and that Territory was currently considering its next steps. Extensive discussions had been held with the Independence Commission set up in Bermuda to look into the implications of any move towards independence; at the Commission's request, his Government had drafted a paper setting out its position on a number of issues, which was currently being studied by the Government of Bermuda.

33. His Government, he pointed out, continued to support capacity-building projects and to promote sustainable development and good governance in its overseas Territories. The Overseas Territories Environment Programme continued to support the implementation of the environment charters for the Overseas Territories. His Government likewise continued to support its overseas Territories in their efforts to strengthen relations with the European Commission and to improve access to the trade and economic and developmental aid provisions of the European Union Overseas Countries and Territories Overseas Association Decision. It had also continued its informal cooperation with the Special Committee; in that context a visit had been made to Bermuda with a view to consider progress towards that Territory's de-listing.

34. Regarding the Overseas Territories Consultative Council held in London in October 2005, according to the United Kingdom Government, there was useful discussion on the relationship between the United Kingdom and the Overseas Territories and progress on constitutional modernization, which continued to take

account of the Territories' particular circumstances. Other areas covered were external relations, good governance, law enforcement, financial services, transport, sustainable development and relations with the European Union. The Department of International Development organized round tables in association with the Overseas Territories Consultative Council on human rights and disaster management.

C. Consideration by the General Assembly

35. On 8 December 2005 the General Assembly adopted, without a vote, resolutions 60/117 A and B of 8 December 2005. Section VIII of resolution 60/117 B is specifically devoted to Pitcairn and states that the General Assembly:

> "*Taking into account* the unique nature of Pitcairn in terms of population and area,
>
> "*Requests* the administering Power to continue its assistance for the improvement of the economic, social, educational and other conditions of the population of the Territory and to continue its discussions with the representatives of Pitcairn on how best to support its economic security".

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland, under Article 73 *e* of the Charter of the United Nations, and from published sources.

[2] The Far East and Australasia, 2005, Europa Publications.

[3] "Pitcairn museum shows Bounty treasures", by Nick Squires in Sydney, *Telegraph*, London, 31 August 2005.

[4] See *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 9* (A/59/23), chap II, annex.

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I. Background information

1. Bermuda[1] is located in the western part of the Atlantic Ocean, about 917 kilometres east of the North Carolina coast of the United States of America. The Territory consists of 8 major islands and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's are the two main towns.

2. Discovered by Spanish navigator Juan de Bermúdez in 1505, Bermuda celebrated its 500th anniversary in 2005.[2] In 1609, Bermuda was settled by a group of English colonists and in 1610, the first slaves were brought to work on the farms and to dive for pearls. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new constitution. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence. The then-opposition party organized a boycott of the referendum among supporters of independence arguing that the issue should be resolved by general election. Current discussions regarding Bermuda's status are detailed in sections II and VIII of the present paper.

3. The latest census conducted in 2000 established Bermuda's resident population at 62,059, of whom 55 per cent were black, 34 per cent white and the remaining 11 per cent mixed or other races. The number of foreign-born residents represented 28 per cent of the population.[3] The Territory is very densely populated (approximately 1,180 inhabitants per square kilometre). It is also on the list of countries with the highest urban population, as 100 per cent of its population lives in urban areas. Recent projections estimate that Bermuda's population will grow to more than 74,000 and reach a density of about 1,380 people per square kilometre by 2030.[4] Automatic citizenship applies to children born in Bermuda, except to those without either parent being Bermudian by birth or status. The Overseas Territories Act, which came into force in 2002, provides British citizenship to the peoples of its Territories, including Bermudians. That law allows Bermudians to hold British passports and work anywhere in the European Union.

II. Constitutional, political and legal issues

4. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The constitution of Bermuda, adopted in 1968 and amended in 1973, 1979, 1989, 2001 and 2003, contains provisions relating to the protection of fundamental rights and freedoms of the individual. The Governor is appointed by the Queen and the Government of the United Kingdom, after consultations with the Premier. The Governor is responsible for defence, external affairs, internal security and the police. The current Governor of Bermuda, John Vereker, took office in April 2002.

5. Bermuda has a parliamentary system of government. The Government comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the leader of the

opposition and three by the Governor at his discretion. The Premier is the individual who commands the confidence of the majority of the members of the House of Assembly and heads a Cabinet of no more than 14 members of the legislature.

6. Bermuda's law and legal system are based on English common law and principles of equity, English statute law (in force since 1612) and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government, and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

7. There are three main political parties in the Territory. The Progressive Labour Party (PLP) was the first party to be formed by the black population of Bermuda in 1963 to gain representation and power in a white-controlled political and economic system. The United Bermuda Party (UBP) was formed in 1964 by whites opposed to PLP policies. The National Liberal Party (NLP) seeks a middle ground.

8. In the 1998 general election the PLP defeated the UBP and took power for the first time in the 35 years since the party system began. The PLP was elected for a second 5-year term in 2003. It now occupies 22 seats in the House of Assembly, with the UBP occupying the remaining 14 seats. The Premier is Alexander Scott. The next election is due by August 2008.

9. In significant measure, racial divisions in Bermuda continue to be played out in support for opposing parties, as well as in the support for, or opposition to, independence (see A/AC.109/2005/19). The ruling PLP, with its predominantly black electorate, wants the issue of independence settled in the context of an election, while the opposition UBP favours using a referendum. The PLP's first elected premier, Jennifer Smith (1998-2003), chose not to prioritize the independence issue. However, the party's current leadership has made independence a prominent policy matter and throughout 2005 it remained the focus of political debate. The Bermuda Independence Commission (BIC), which was set up in December 2004, continued to work throughout 2005 and issued an official report in August 2005.[5] For details, see section VIII below.

10. In March and May 2005, a United Nations Special Mission of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, visited Bermuda at the invitation of BIC and with the concurrence of the administering Power. (For a summary of the Mission's activities and conclusions, see para. 57 below.) For a complete Mission report, see A/AC.109/2005/19.

III. Budget

11. The budget of Bermuda for the fiscal year 2005-2006 was presented in February 2005 by the Minister of Finance.[6] The Budget Statement noted that the economic outlook for 2005 was favourable and forecast Bermuda's gross domestic product (GDP) to grow in the range of 2.5 to 3.0 per cent. However, it was also noted that the 2005-2006 budget would focus on a "Social Agenda" to promote fairness in the availability, accessibility and quality of public services, through projects in health, education, housing and labour designed to narrow "the gap between the 'haves' and the 'have nots' in [Bermuda]"

12. The Budget Statement estimated that the Government would collect total revenues of $750 million in 2005-2006, about 1.5 per cent higher than the revised revenue estimate of $738 million for the previous year. According to the administering Power, as of September 2005 total revenue was about 9 per cent ahead of the original revenue estimate. It was anticipated that the continued strength of receipts from customs duty, stamp duties and payroll tax along with the steady level of fees from international business would help to compensate for the reduction in passenger tax and hotel occupancy tax arising from the decline in the number of air visitors.

13. The Government's total planned expenditure for the fiscal year 2005-2006 of $711 million was a $51 million increase over the previous year's. According to the administering Power, expenditure might increase to approximately $715 million because of supplementary budget requests. Owing to delays in some capital projects, the Government anticipated that capital expenditure would be less than the projected $137 million. As a consequence of the revised capital spending profile combined with the anticipated increase in revenue, the Government's borrowing requirement in 2005-2006 was estimated to decrease to approximately $52 million compared to the original estimate of about $98 million.

IV. Economy

A. General

14. Bermuda's per capita GDP of $53,400 is one of the highest in the world. At the same time, the high cost of living relegates it to ninth place on the list of countries with the highest purchasing power. The headline rate of inflation in September 2005 stood at 2.8 per cent "year-over-year" after beginning the year at 4.1 per cent. Nonetheless, Bermuda's economic strength translates into a growing prosperity for Bermudians. The September 2005 Household Expenditure Survey reported average household income of $106,233 in 2004, an increase of 62 per cent since 1993. The report also cited a significant growth in home ownership, which in 2004 increased to 51 per cent as compared to 43 per cent in 1993.

15. Financial services, international business and tourism are the main economic sectors in Bermuda and account for the bulk of the Territory's foreign-exchange earnings. The Territory's openness to the world economy and strong links to the economy of the United States of America largely determine its pattern of economic growth. The October 2005 Standard & Poor's report identified Bermuda's low level of government indebtedness, its position as a net creditor and its dynamic international business sector as the major factors contributing to its economic strength. The report noted, however, that as a small and open economy with limited diversification, Bermuda was vulnerable to external factors such as global economic downturns and changes in tax and regulatory environments. Notwithstanding these risk factors, Standard & Poor's assigned Bermuda a sovereign rating of "AA" with a stable outlook.

16. According to the information provided by the administering Power, the external sector of the economy has produced encouraging results over the first six months of this year. Bermuda's balance of payments in the first two quarters of 2005 recorded a surplus on current account of $106 million compared to a surplus of

$78 million in the first two quarters of 2004, a gain of 36 per cent. Payments increased from $980 million in the first two quarters of 2004 to $990 million in the corresponding quarters of 2005, representing an increase of 1.0 per cent. Receipts increased from $1,058 million in the first six months of 2004 to $1,096 million in the first six months of 2005. This movement represents an increase of 3.6 per cent.

B. Financial services

17. Bermuda is one of the world's leading offshore financial and business centres and among the major jurisdictions worldwide in large-scale insurance and reinsurance. According to the administering Power, Bermuda's international business sector continues to grow. During the first nine months of 2005, 839 new international companies and partnerships were registered in Bermuda. The total number of companies on the register at the end of the third quarter of 2005 had increased by 1.8 per cent as compared to the same period in 2004.

18. Bermuda's insurance industry suffered heavy losses in the 2005 hurricane season, with existing insurers estimated to have lost between US$ 12 billion and US$ 15 billion, largely as a result of claims from Hurricanes Katrina and Rita. While six smaller companies ceased business as a consequence, larger companies are expected to have recharged their capital base by the end of 2005, and 12 new insurers have either been created or are planned to take advantage of higher premiums.[7]

19. There is no central bank in the Territory; instead, the Bermuda Monetary Authority (BMA) is the regulatory authority for banks and trust companies. The 2005 International Monetary Fund (IMF) review of Bermuda's financial sector regulation and supervision concluded that although positive developments had taken place in the banking sector, certain deficiencies still existed in the supervision of the insurance sector. IMF recommendations for banking included legislative changes to increase operational independence of the BMA supervisor and enhanced on-site and off-site banking supervision by BMA. In regard to the insurance sector, the report recommended that independent auditors should receive additional guidance from BMA authorities, and better information from the industry. IMF also suggested that BMA should have greater capacity to audit on-site and off-site information supported by enhanced information technology systems. The report concluded that the anti-money-laundering efforts in Bermuda were satisfactory. IMF deemed the existing legal framework adequate to cope with potential money laundering activities and financing of terrorism.[8]

20. Bermuda's active offshore financial community, characterized by high-value transactions, as well as its excellent telecommunications infrastructure make it a natural e-commerce leader. In 2005 the Territory hired its first director of e-commerce to advance Bermuda's interests in this field.

C. Tourism

21. As was reported in 2004 (A/AC.109/2004/14), Bermuda's tourism sector has experienced a decline since the 1980s, owing mostly to increased competition from cheaper destinations and the growth of cruise ship tourism, as well as to fluctuations in the international economy. In January 2006, the Economist Intelligence Unit

reported that tourist spending in Bermuda had decreased by about 25 per cent over the past five years.[7]

22. According to the Tourism Minister, the number of tourists to visit Bermuda in 2005 exceeded 521,000.[9] Although this marked the highest number of arrivals in the last five years, these gains were dominated by cruise ship passengers whose contribution to the local economy is minimal.[7] In order to stimulate the tourism sector, the Government plans to attract new visitors with new and cheaper flights, improved hotels, sports events and other entertainment.[9] The Government has set itself a goal of 400,000 air tourists for 2006, a significant increase over the 270,000 who arrived by air in 2005.[10]

D. Construction

23. Bermuda's construction industry benefits from both private and public sector investment. In 2004, the strong performance in the construction sector continued, with some industry analysts predicting that it would last for another five years. However, according to government statistics, the construction boom slowed in the first three quarters of 2005, with new projects started in this period valued at $51.9 million as opposed to $181.7 million for the same period in 2004. Nonetheless, the total value of all construction projects under way in 2005 increased over the 2004 figures.[11] Additional funding for public sector projects, in line with the Government's "Social Agenda", is expected to keep the construction sector robust.

24. Despite the strength in the construction industry, there continues to be a distinct lack of affordable housing for less well-off Bermudians. In the 2005 Public Perception Study on Sustainable Development, housing was identified as the single greatest long-term challenge facing Bermuda.[12] In the framework of the 2005/2006 budget speech, the Minister of Finance referred to affordable housing as one of the five key strands of the Government's "Social Agenda". She noted that the Government planned to build 160 housing units through a public-private partnership as well as additional emergency housing units.

E. Transport and communications

25. Bermuda has very high standard transport and telecommunications systems. There is a network of about 225 kilometres of paved public roads and another 400 kilometres of private roads on the island. The number of cars licensed to operate on Bermuda's roads has increased by 70 per cent since 1980. According to the administering Power, in 2004-05 the Transport Control Department generated $24.7 million in revenues, primarily through vehicle registration and licensing. This is a major source of revenue for the Bermuda Government.

26. The Bermuda International Airport has undergone significant improvements since 2000. There are numerous regular flights between Bermuda and the United States, Canada and the United Kingdom.

27. Cargo and cruise ship activity injects approximately $60 million into Bermuda's economy every year. In July 2005, the Government announced two projects to develop the Territory's waterfronts: the Ports Enhancement Project,

which will adapt current harbours to accommodate "mega" cruise ships, and the Waterfront Task Force to develop pedestrian spaces and other attractions.[13]

V. Military issues

28. The Territory maintains a Defence Regiment of some 400 soldiers;[14] the adult male population is subject to military conscription, involving three years' part-time liability for weekly drills and an annual camp.

29. The United States and the United Kingdom closed their military installations on Bermuda in 1995. In 2002 the United States paid Bermuda $11 million as part of the termination of the Base Lands Agreement, but did not make compensation for what the Bermuda Government claimed was significant environmental damage in parts of the base area. To date many facilities have been used for civilian redevelopment by the Government's Bermuda Land Development Corporation.[15] The Government's focus has been to develop the former base lands in the eastern part of the island known as "Southside". In addition, it is considering various options for developing the former base site at Morgan's Point. The media reports that environmental concerns continue to be raised regarding the use of the land.[16]

VI. Social conditions

A. General

30. While Bermuda's GDP is among the highest in the world, redressing inequalities in wealth on the island has been a priority for the current Government. The 2005-2006 budget revealed a greater public spending on social initiatives which is in line with the Government's "Social Agenda".

B. Labour

31. Although unemployment remained at a low 2.1 per cent in 2005, the Government of Bermuda introduced unemployment insurance in November 2005. The new benefit is meant to be temporary and it is closely linked to job search and retraining services. It is anticipated that the new insurance will be largely used by seasonal hotel workers.[17]

32. With near-full employment and full pension coverage for Bermudians, most labour issues concern the quality of work available and the effect of foreign workers on the Bermuda labour market. Responding to complaints among the black population of racial discrimination in the workplace, especially in the international business sector, in 2000 the Bermuda legislature required every company with more that 10 employees to present detailed information on its racial composition, including information on hiring, firing and promotions. These regulations are central to the social policies of the current Government.

C. Education

33. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. The literacy rate is high: 98 per cent of all males and 99 per cent of females 15 years of age and over can read and write. The Ministry of Education and Development governs the public school system, which includes 2 senior secondary schools, 5 middle schools, 18 primary schools, 12 preschools, and 2 special schools. High school graduates are prepared for further studies at the Bermuda College or institutions abroad, mainly in the United States, Canada and the United Kingdom.[18]

34. According to the 2000 census, 20 per cent of Bermuda residents hold university degrees. At the same time, the census also revealed a serious disparity between the proportion of white students going to private schools (three quarters) and black students attending the government educational system. The declining quality of education at Bermuda's public schools is a frequent issue in the media. It is reported that in 2005 only 53 per cent of students attending public schools graduated from high school.[19]

D. Health

35. Life expectancy in Bermuda is in line with other high-income countries in the Western Hemisphere. In 2000 it was 80.44 for women and 74.74 for men. However, life expectancy among blacks in Bermuda is nearly four years shorter than for whites.[20]

36. There is no comprehensive publicly funded health insurance, although hospitalization insurance is mandatory for all employed or self-employed persons. Nonetheless, insurance coverage is nearly universal, and some persons are insured by more than one provider. The Territory's two hospitals, the King Edward VII Memorial Hospital and the Mid-Atlantic Wellness Institute, are operated by the Bermuda Hospitals Board, a statutory body financed by the Government.[21]

37. The very high life expectancy together with extremely low infant and maternal mortality is proof of the high quality of Bermuda's health care. However, disparities in life expectancy, insurance coverage and distribution of health financing, in particular affecting low-income, senior-headed and black households, indicate the existence of pockets of inequity. The Bermuda Health Council, established by law in 2004, has been mandated to address these and other issues relating to the health system.[2] The Health Council is expected to be operational in 2006.

38. Despite the high incidence of AIDS in Bermuda, wider access to antiretroviral treatments cut AIDS deaths by half from 2000 to 2002.[22] Following this downward trend, according to Bermuda's health authorities, there were only three deaths attributed to AIDS in 2004, a significant reduction from 14 in 2002. Nonetheless, black Bermudians remain disproportionately afflicted by HIV/AIDS.[23]

E. Human rights and related issues

39. The report of the Bermuda Independence Commission (BIC), issued in August 2005, noted that the racial question has been "an ever-present, although seldom acknowledged feature of the Bermudian social, economic and political landscape". In the speech delivered at the opening of parliament in November 2005, the Government acknowledged that race relations continued to impact the life of Bermudians. The Government pledged to support the Human Rights Commission and the Commission for Unity and Racial Equality (CURE) in a major race relations initiative. The organization Citizens Uprooting Racism in Bermuda (CURB) has been tasked with recommending tangible achievable strategies for the elimination of racism and an amendment to the CURE legislation will require large companies to review their policies to ensure that racial barriers to opportunity are removed.

F. Crime

40. Bermuda has a police force of approximately 450 full-time officers and several hundred part-time police reserves. Following a rise in crime in 2003 and 2004, tougher restrictions on carrying weapons and increased sentencing powers for drug and weapons offences were introduced in July 2005. Legislation was also introduced to improve police arrest and detention procedures, and bolster the work of crime investigation and evidence gathering.[7]

41. However, year-end police statistics show that the crime rate increased by about 12 per cent overall in 2005, with break-in offences and robberies rising by more than 20 per cent and 40 per cent, respectively. According to Bermuda's police officials, a small group of about 50 repeat offenders is responsible for the majority of crime on the island.[24]

G. Environment

42. According to the administering Power, a wave of environmental legislation was put forth in 2005, in support of the Government's initiative on sustainable development. This legislation includes the Clean Air Amendment Act, enacted on 31 December 2005; the White Paper on Marine Environment and Fishing Industry in Bermuda, which was submitted in July 2005 and released for public comment; the Anti-Fouling Paints Prohibition Regulation; the Fisheries (Protected Areas) Order, to protect an important spawning ground off the east coast of Bermuda; the Care and Protection of Animals (Commercial Horse Stables) Licensing Regulations; and the draft Cooper's Island Land Use and Management Proposals Plan, submitted in May 2005, which aims to protect 77 acres of open space as a green lung in an increasingly developed island.

VII. Relations with international organizations/arrangements

43. Bermuda is currently an associate member of the Caribbean Community (CARICOM). According to the PLP's submission to the Bermuda Independence Commission (BIC), if independence were achieved, the party would support joining the United Nations and the Commonwealth Secretariat.[5] Regarding CARICOM, the

PLP would consider full membership only if Bermuda would not become a signatory to the Caribbean Single Market and Economy, with its free movement of people, nor to the Caribbean Court of Justice. The PLP would also consider membership in the International Monetary Fund, the World Trade Organization, the Organization of American States, the North American Free Trade Agreement and the Inter-American Development Bank.

VIII. Future political status of the Territory

44. As mentioned in paragraph 9 above, the mechanism of determining the wishes of the people of Bermuda in relation to independence either in a general election or by referendum remains one of the central issues upon which the main political parties are divided.[25]

45. At the September 2004 meeting of the Overseas Territories Consultative Council in London, the representatives of the Territories enquired whether the United Kingdom was supportive of the Territories exercising their right to self-determination "by election or referendum". In early 2005 the United Kingdom Parliamentary Secretary of State, Bill Rammell, sent a policy memorandum to the Governors in the Territories, which stated the following:

> "As the grant of independence by the United Kingdom requires the prior approval of (the United Kingdom) Parliament, the United Kingdom Government needs to be satisfied that, if a territory moves to independence, it does so on the basis of the clearly and constitutionally expressed wish of its people. The move to independence is a fundamental step. Increasingly in the United Kingdom, major constitutional issues of this kind are being put to a referendum. At this time, the presumption of the United Kingdom Government is that a referendum would be the way of testing opinion in those territories where independence is an option. But a final decision on whether to go the referendum route, and on what form the referendum might take, would need to be determined by the United Kingdom on a case-by-case basis, reflecting the uniqueness and individual characteristics of each Territory."

46. In January 2005, the Government of Bermuda established the Bermuda Independence Commission (BIC). It was the Government's stated intention that the Commission be independent of the Government, representative of the wider Bermudian community and that it should educate, inform and encourage discussion and debate on the subject of independence for Bermuda. It consisted of 14 members appointed by the Premier, including representatives from unions and organizations, as well as private individuals. The opposition UBP declined formal membership in the Commission. However, two former UBP officials participated in their personal capacities.

47. In June 2005, a representative of the Government of Bermuda, and member of the BIC, Dianna Kempe, addressed the Special Committee on Decolonization (see A/AC.109/2005/SR.9). She touched on the constitutional alternatives for Bermuda as well as the social problems confronting its population. She noted that there was neither a financial imperative for change nor any substantial impasse with the administering Power. Many Bermudians saw little or no British influence and saw no need for change while others saw independence as the necessary last step in shaking off slavery, colonialism and segregation. Both groups held equally strong

views. While the education process undertaken by the BIC might not have changed very many people's minds, it had at least clarified what independence would mean for Bermuda and Bermudians.

48. Following six months of international consultations, investigation and public meetings, the BIC published its report in August 2005.[5] The report noted that the BIC intended to "explode the myths and misconceptions" regarding independence. Regarding the use of either a general election or a referendum to test public opinion on independence, the Commission concluded that it is "incumbent upon both political parties to share the merits of each method". The report explored Bermuda's current constitutional status, how issues such as the economy, citizenship, the appointment of public officers, internal security and defence might change should Bermuda become independent, and how much the step might cost (estimated between $5 million and $14 million per year, the latter figure being equivalent to 2 per cent of government revenue). It noted that independence, in and of itself, would not change the social challenges faced by Bermuda, nor would it on the other hand precipitate a flight of international business. The BIC recommended that the Government start a national dialogue laying out the kind of government, constitution and related matters it would propose for an independent Bermuda. It also recommended that the Government confer with the Bermuda International Business Association and the Insurance Development Council to ensure that myths of independence are separated from reality and that the same message is carried to prospective companies. In addition, because many Bermudians seemed concerned about the loss of British citizenship, the BIC urged the Government to explore how citizenship might be retained should Bermuda proceed to independence. Regarding the impact of race relations on attitudes to independence, the BIC strongly recommended the Government lead a process of truth and reconciliation to achieve equal opportunity and genuine social unity. Finally, the BIC called on the Government to obtain from the United Kingdom a comprehensive list of all of Bermuda's international treaty obligations, and to review opportunities regarding membership of international organizations.

49. In November 2005, during the annual Speech by which Bermuda's Parliament is opened (traditionally known as the Speech from the Throne), reflected the following message from the Bermudian Government on independence:

> "The Bermuda Independence Commission highlighted to this community that if the process towards sovereignty is handled in an open and transparent manner, international business will not leave these shores, the dollar will not lose its value and the status and relationship with overseas neighbours will not be threatened. Independence is therefore a natural progression for a mature jurisdiction such as Bermuda."

50. The Speech went on to inform Bermudians that following a series of public meetings to disseminate the conclusions reached by the BIC, the Government would present a Green Paper for discussions within the House of Assembly and ultimately, "a White Paper outlining the Government's policy proposals for an independent Bermuda". The Speech concluded as follows:

> "Currently, Bermuda's role on the world stage is performed by others. The United Kingdom Government speaks for Bermuda on international political issues; the financial sector delivers Bermuda's external economic impact. It is the [Bermudian] Government's view that the time has come for

Bermuda to rehearse her own voice and write her own script. Bermudians must be prepared to play many parts. They must expand their horizons. Let history record that Bermuda saw the challenge of the future and met it!"

51. The issues of independence and the mechanism used to ascertain the wishes of the people of the island on this matter continue to be contentious. The media has reported that the BIC report was perceived by some sectors as biased towards the government position.[26] Meanwhile, a poll conducted at the beginning of 2006 revealed that support for independence had risen, with almost 24 per cent of Bermudians favouring independence, compared to 16 per cent in November 2005.[4] Subsequently, in February 2006, the group Bermudians for Referendum, which collected over 15,000 signatures demanding that the question of independence be decided by referendum, stated that it was prepared to organize a march on Parliament and take the issue to the United Kingdom if its request was ignored.[27]

A. Position of the administering Power

52. The BIC met with representatives of the Foreign and Commonwealth Office in London from 14 to 16 March 2005, to discuss a wide range of issues relating to Bermuda's constitutional position, as well as the implications of independence. The Foreign and Commonwealth Office's formal written response of 6 May 2005 was included in the BIC's final report.[28] It included a policy statement on the election versus referendum issue (see para. 45 above) and presented the United Kingdom's views on matters such as legislation, citizenship, maritime and aviation issues, defence, treaty succession, and United Nations membership, and how these would be affected by independence. It also reiterated the United Kingdom's policy that neither integration nor free association are options on offer to the Territories. It noted that the United Kingdom does not consider itself bound by the three options for self-government set out in General Assembly resolution 1541 (XV) of 14 December 1960 and considers that it is "far more important to reach a constitutional arrangement that is acceptable to the Territory and to the United Kingdom".

53. In a statement at the 2nd meeting of the Fourth Committee, on 5 October 2005, during the sixtieth session of the General Assembly (see A/C.4/60/SR.2), the representative of the United Kingdom said the consultation process between his Government and its 10 overseas Territories was continuing. The seventh annual meeting of the Overseas Territories Consultative Council would be held in London in October 2005. The Council provided a forum for dialogue between democratically elected chief ministers and their equivalents from the Territories and United Kingdom Government Ministers on a range of issues including the relationship between the United Kingdom and its overseas Territories, constitutional modernization, good governance, environmental matters and the United Kingdom's international obligations.

54. The United Kingdom Government welcomed the progress that was being made in the constitutional review process; there had been useful discussions between his Government and representatives of Gibraltar, Montserrat and the Turks and Caicos Islands. In Saint Helena, a consultative poll had rejected a revised draft constitution and that Territory was currently considering its next steps. Extensive discussions had been held with the Independence Commission set up in Bermuda to look into

the implications of any move towards independence; at the Committee's request, his Government had drafted a paper setting out its position on a number of issues (see para. 52 above), which was currently being studied by the Government of Bermuda.

55. The United Kingdom Government, he pointed out, continued to support capacity-building projects and to promote sustainable development and good governance in its overseas Territories. The Overseas Territories Environment Programme continued to support the implementation of the environment charters for the overseas Territories. His Government likewise continued to support its overseas Territories in their efforts to strengthen relations with the European Commission and to improve access to the trade and economic and developmental aid provisions of the European Union Overseas Countries and Territories Overseas Association Decision. It had also continued its informal cooperation with the Special Committee; in that context a visit had been made to Bermuda with a view to consider progress towards that Territory's delisting.

56. With regard to the Overseas Territories Consultative Council, which met in London in October 2005, according to information submitted by the administering Power under article 73 (*e*) of the Charter, there was useful discussion on the relationship between the United Kingdom and the Overseas Territories and progress on constitutional modernization, which continued to take account of the Territories' particular circumstances. Other areas covered were external relations, good governance, law enforcement, financial services, transport, sustainable development and relations with the European Union. The Department of International Development organized round tables in association with the Overseas Territories Consultative Council on human rights and disaster management.

B. Consideration by the United Nations

57. As referred to in paragraph 10 above, the United Nations Special Committee on Decolonization sent a Special Mission to Bermuda in March and May 2005, at the invitation of the BIC and with the concurrence of the administering Power. The Special Mission met with the BIC, the Premier of Bermuda, members of the Cabinet, the leadership of the opposition UBP and the Governor of the Territory, and it also participated in six public meetings at various sites on the islands. In its report (A/AC.109/2005/19), the Special Mission concluded that there was insufficient awareness among the people of Bermuda and its political leadership of the role of international law in self-determination and the important part that the United Nations system could play in supporting this process. Given that the position of the administering Power on the unavailability of certain political options differs substantively from the consensus position in United Nations resolutions, which confirm a broader range of legitimate political alternatives, the Special Mission sought to shed some light on this, as well as on the minimum standards for what constitutes self-government, and on the role of the United Nations under Chapter XI of the Charter. The Special Mission also reflected on the significant racial division in Bermudian society and the need for national reconciliation as important to the future of Bermuda, irrespective of its eventual political status.

58. A representative of the BIC, Michael Winfield, and an expert from the Territory, Walton Brown, attended the Special Committee on Decolonization's Caribbean Regional Seminar held in Saint Vincent and the Grenadines from 17 to 19 May 2005 (see A/60/23). The BIC representative recalled the creation, composition and mandate of the BIC, as well as the procedures for a national debate on independence once its report was completed. The expert reflected on the different options for self-determination and their applicability to the Territories under United Kingdom Administration.

59. As mentioned in paragraph 47 above, on 16 June 2005, during the ninth meeting of the Special Committee on Decolonization, a representative of the Government of Bermuda and member of the BIC, Dianna Kempe, addressed the Committee (see A/AC.109/2005/SR.9). Several Bermudian student winners of the competition on the best essay devoted to independence also addressed the Special Committee; they described the assignment, along with how they had arrived at their particular views on the question of whether or not Bermuda should "go independent".

60. On 8 December 2005, the General Assembly adopted resolutions 60/117 A and B without a vote; section III of resolution 60/117 B is specifically devoted to Bermuda.

Notes

[1] The information contained in the present Working Paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom under Article 73 *e* of the Charter of the United Nations, as well as from official sources of the Government of Bermuda and other published sources.

[2] *The Royal Gazette*, 26 April 2005.

[3] Department of Statistics, Bermuda Government.

[4] *The Royal Gazette*, 31 January 2006.

[5] *Report of the Bermuda Independence Commission*, August 2005.

[6] Government of Bermuda 2005-2006 Budget Statement, 18 February 2005.

[7] Economist Intelligence Unit, Bermuda: Country report, January 2006.

[8] International Monetary Fund, IMF Country Report No. 05/98, *Bermuda: Assessment of the Supervision and Regulation of the Financial Sector — Volume I — Review of Financial Sector Regulation and Supervision, January 2005.*

[9] *Bermuda Sun*, 27 January 2006.

[10] *Bermuda Sun*, 1 February 2006.

[11] *The Royal Gazette*, 28 December 2005.

[12] *The Royal Gazette*, 20 December 2005.

[13] *The Bermuda Sun*, 5 July 2005.

[14] *The Royal Gazette*, 13 February 2006.

[15] Bermudaonline.org/milquit.htm.

[16] *The Royal Gazette*, 28 November 2005 and 2 December 2005.

[17] *The Royal Gazette*, 16 November 2005.

[18] www.gov.bm.

[19] *The Royal Gazette*, 25 November 2005.

[20] "Bermuda Health Systems and Service Profile", Dr. Marcelo Ramella, March 2005.

[21] PAHO, Bermuda Country Health Profile, http://www.paho.org/english/sha/prflber.htm.

[22] Caribbean Epidemiology Centre PAHO/WHO 2003, quoted in AIDS Epidemic Update, UNAIDS/WHO, December 2005.

[23] *The Royal Gazette*, 25 February 2005.

[24] *The Royal Gazette*, 9 February 2006.

[25] *Bermuda Sun*, 17 December 2004, "A Country Divided".

[26] *The Royal Gazette*, 1 January 2006.

[27] *The Royal Gazette*, 3 February 2006.

[28] www.bermudaindependencecommission.bm, annex 5.